

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 2126 of 1993

For Approval and Signature:

Hon'ble MISS JUSTICE R.M.DOSHIT

- =====
1. Whether Reporters of Local Papers may be allowed : NO
to see the judgements?
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
 4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the Civil Judge? : NO

V.L.RAVAL

Versus

STATE OF GUJARAT

Appearance:

MR BIPIN P JASANI for Petitioner
MR PUJARI AGP for Respondent No. 1

CORAM : MISS JUSTICE R.M.DOSHIT
Date of decision: 22/12/2000

ORAL JUDGEMENT

Heard the learned advocates.

The petitioner before this court was appointed as
a Supervisor on temporary basis by the Surendranagar
District Panchayat under its order dated 3rd July, 1965.

He is now an Additional Assistant Engineer. The petitioner claims promotion to the post of Deputy Executive Engineer. At the time of admission hearing of this petition, this court (Coram : M.R.Calla J.) on 31st March, 1995, made an order as under :

Heard Mr. Jasani for the petitioner and Ms. Katha Gajjar, learned AGP for the respondents.

Rule. Ms. Katha Gajjar, learned AGP waives service of Rule for the respondents.

It is submitted that the petitioner had been exonerated twice with regard to the charges for which he had been subject to inquiry way back in 1984 and now he has been made to face the same charges in a joint inquiry since 1987 and on that ground, the petitioner's promotion to the post of Deputy Executive Engineer has been held up.

In the facts and circumstances of the case, the matter is directed to be listed for final disposal on 12-6-95. Be listed in the First Board.

Thus, it was the grievance of the petitioner that under the guise of the pending inquiry, the petitioner has been denied promotion to the post of Deputy Executive Engineer while several of his juniors were so promoted, however, though the charges in respect of which the petitioner is called upon to face the inquiry, were already inquired into earlier and the petitioner was exonerated. Today, Mr. Jasani has relied upon the orders at page 58 and 57 and has submitted that the charges in respect of which the inquiry had been completed, under the orders at page 58 and 57 the petitioner is once again charged charged under order dated 29th April, 1987 at page-60. On perusal of the records, it appears that in respect of several irregularities committed in various works entrusted to the petitioner, inquiries have been held/initiated against the petitioner. The order dated 8th April, 1985, at page-58 refers to the charge in respect of use of lesser quantity of cement in west veer project at village Methan, Bharda and Vavdi. An inquiry in that respect was initiated by issuing a show cause notice on 28th January, 1984, and under the said order, the petitioner was found to be partially guilty and a 'censure' was issued against him. The order at page-67 is that of 27th August, 1987, under which also a

'censure' has been issued against the petitioner. The said order is in respect of a chargesheet issued on 8th March, 1982 in respect of sub-standard construction of a west veer at village Sarval of Taluka-Dhrangadhra. The order dated 29th April, 1987, at page-60 is the one which is impugned in this petition. Mr. Jasani has strenuously urged that by order dated 29th April, 1987 (at page-60) the petitioner has been asked to face a joint inquiry against several other officers named therein. The inquiry is in respect of the very same charges for which the inquiries were held earlier on 23rd December, 1983 (at page-41), and the petitioner was exonerated. I must state that the averment/submission is misconceived and is made with a view to misleading the court. Though it is repeatedly urged that the petitioner was exonerated of the charges referred to in the order dated 23rd December, 1983 (at page-41), no such order is brought on the records of the matter. On perusal of the said order, it becomes apparent that the said order is made in respect of 7 acts of misconduct alleged to have been committed by the petitioner in various construction projects referred to therein. All that the order says is that the Government had decided to inquire into the said allegations. The said order does appear to be a formal chargesheet either. On careful perusal, I find that none of the charge include therein is the same as the once which were subject matter in the earlier inquiry pursuant to which the orders are made on 8th April, 1985 (at page 58) and 27th August, 1987 (at page-67). The impugned order dated 29th April, 1987 (at page-60) can, by no stretch of imagination, be said to be a joint inquiry against several officers named therein. It is simply an order by which the State Government has entrusted several inquiries against several of its officers to the Commissioner of Inquiries, Gandhinagar. In short, under the said order, an Inquiry Officer has been appointed in respect of inquiries initiated against several officers. The charges against each of them are totally different and independent of one another. I, therefore, find that the allegation of the petitioner that he has been made to face the same charge once again is totally misconceived and requires to be rejected. It also can not be said that the inquiry has been initiated against the petitioner with a view to depriving him of his promotional chance.

As regards the promotion of the petitioner to the post of Deputy Executive Engineer, the counter-affidavit made by the Deputy Secretary to the State Government, Narmada and Water Resources Department, revealed that at the relevant time, i.e. in the year 1983, the

petitioner's case was considered for promotion, but since a disciplinary inquiry was pending against him at the relevant time, the same was placed in a sealed cover. Thereafter also the petitioner's case for ad-hoc promotion was considered by the Departmental Promotion Committee in its meeting held in the years 1985, 1989 and 1991, but the Departmental Promotion Committee did not recommend such ad-hoc promotion either. The affidavit also revealed that the completion of the inquiry against the petitioner is delayed on account of non-co-operative attitude of the petitioner. In spite of repeated reminders made by the Commissioner of Inquiries, the petitioner did not submit his reply to the charges levelled against him.

Hence, it appears to me that the petitioner's case for promotion has been considered by the Departmental Promotion Committee at the relevant time. On account of pending disciplinary action, the recommendations made by the Committee was placed in the sealed cover. The inquiry initiated in the year 1983 for which the Investigating Officer was appointed in the year 1987 could not proceed further on account of non-co-operation by the petitioner. It does appear to me that the inquiry initiated in the year 1983 ought to have been completed long ago. The undue delay in completion of the inquiry is neither in the interest of the administration nor in the interest of the delinquent Government servant. However, in the present case, the petitioner appears to have taken a wrong non-co-operative stand and such delinquent servant can not be helped even by a court of law. It requires to be noted here that no rejoinder has been filed by the petitioner in spite of the allegations made against him in the counter affidavit.

In the interest of justice, it is directed that all the inquiries pending against the petitioner as on now shall be completed on or before 30th September, 2001 irrespective of the co-operation on the part of the petitioner. It is expected that the petitioner shall co-operate in the completion of the disciplinary actions pending against him. In the event the respondent fails to complete the inquiry pending against the petitioner by 30th September, 2001, the respondents shall open the sealed cover and shall act in accordance with the recommendations made by the Departmental Promotion Committee. In the event the petitioner is not found to be fit for the promotion and is not given promotion or deemed date of promotion as claimed by him, the petitioner shall be informed accordingly.

Subject to the above directions, the petition is dismissed. Rule is discharged.

(MS R.M.DOSHIT J)

JOSHI